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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,300	12/28/2004	Yoshiharu Osaki	L9289.04194	9177

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STEVENS DAVIS MILLER & MOSHER, LLP
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EXAMINER

CHEN, JUNPENG

ART UNIT	PAPER NUMBER
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2618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/519,300

Applicant(s)

OSAKI ET AL.

Examiner

Junpeng Chen

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is in response to applicant's amendment filed on 12/18/2006. Claims 1-7 have been cancelled and claims 8-14 are added. **This action is made FINAL.**

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "said instruction section" in line 11 of the present claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 8 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over **prior art admission by Applicant**.

Consider **claim 8**, prior art admission by Applicant discloses a multicarrier transmission apparatus comprising: an instruction section (*read as a controlling section which comprises control section 21-1 and control section 21-2, Fig. 4 of current application, lines 1-2 of page 5 of current application*) that, when the multicarrier transmission apparatus transmit a signal to the communication party station in a first carrier frequency while said communicating party station receives another signal in said

Art Unit: 2618

first carrier frequency from a remote station, issues instruction to stop signal transmission; and a transmission section that transmits the signal in said first carrier frequency and said second carrier frequency and stops signal transmission according to the instructions from said instruction section (*read as two base stations and a mobile station perform position detection of the mobile station, the RF analog section 18-1 in the communication apparatus (within first base station) of Figure 4 would transmit a signal with a frequency at which the mobile station receives a signal from another base station (within second base station). Once a signal from the second base station is received, the first base station stops transmitting signals for a short period of time in order to detect a position of the mobile station. Then, while the first base station stops transmitting signals, the mobile station receives a signal (pilot channel) transmitted from a nearby (second) base station and measures the distance between the mobile station and the second base station by using the level of the received signal, lines 14-21 of page 1 of current application).*

However, prior art admission by Applicant fails to specifically disclose the issued instruction is to stop signal transmission in said first carrier frequency and a second carrier frequency adjacent to said first carrier frequency, and the transmission section stops signal transmission in said first carrier frequency and said second carrier frequency.

Nonetheless, according to prior admission by Applicant, control sections 21-1 and 21-2 in Figure 4 correspond to the control section 21 (line 2 of page 5), which control to stop the signal transmission in order to detect position of the mobile station

(lines 23-25 of page 2). It is within the capabilities of a person with ordinary skill in the art to make control sections 21-1 and 21-2 to instruct and stop the RF analog sections 18-1 and 18-2 to transmit signals at their own frequency.

Therefore, it would have been obvious for a person with ordinary skill in the art at the time the invention was made to stop both the signal transmissions in first and second carrier frequency to detect position of the mobile station.

Consider **claim 12, as applied to claim 8 above**, prior admission by Applicant discloses that the multicarrier transmission apparatus above is for a base station apparatus, lines 14-21 of page 1 of current application.

Consider **claim 13, as applied to claim 8 above**, prior admission by Applicant discloses a mobile communication system (CDMA communication, line 14 of page 1 of current application) comprising:

a base station apparatus comprising the multicarrier transmission apparatus of claim 1 (*read as the multicarrier transmission apparatus above is for a base station apparatus, lines 14-21 of page 1 of current application*)

and a mobile station apparatus that, when a carrier corresponding to a communicating base station apparatus is not in operation, receives a carrier corresponding to a different base station apparatus from said communicating base station apparatus (*read as the base station stops transmitting signals for a short period of time in order to detect a position of the mobile station. Then, while the base station stops transmitting signals, the mobile station receives a signal (pilot channel) transmitted from a nearby base station and measures the distance between the mobile*

station and this base station from the level of the received signal, lines 14-21 of page 1 of current application).

Consider **claim 14**, prior art admission by Applicant discloses a multicarrier transmission method comprising:

when a signal is transmitted to a communication party station in first carrier frequency while said communicating party station receives another signal in said first carrier frequency from a remote station, issuing an instruction to stop signal transmissions, and a transmitting signals in said first carrier frequency and said second carrier frequency and stopping signal transmission according to the instructions (read as *two base stations and a mobile station perform position detection of the mobile station, the RF analog section 18-1 in the communication apparatus (within first base station) of Figure 4 would transmit a signal with a frequency at which the mobile station receives a signal from another base station (within second base station). Once a signal from the second base station is received, the first base station stops transmitting signals for a short period of time in order to detect a position of the mobile station. Then, while the first base station stops transmitting signals, the mobile station receives a signal (pilot channel) transmitted from a nearby (second) base station and measures the distance between the mobile station and the second base station by using the level of the received signal, lines 14-21 of page 1 of current application).*

However, prior art admission by Applicant fails to specifically discloses the issued instruction is to stop signal transmission in said first carrier frequency and a second

carrier frequency adjacent to said first carrier frequency, and stopping signal transmission in said first carrier frequency and said second carrier frequency.

Nonetheless, according to prior admission by Applicant, control sections 21-1 and 21-2 in Figure 4 correspond to the control section 21 (line 2 of page 5), which control to stop the signal transmission in order to detect position of the mobile station (lines 23-25 of page 2). It is within the capabilities of a person with ordinary skill in the art to make control sections 21-1 and 21-2 to instruct and stop the RF analog sections 18-1 and 18-2 to transmit signals at their own frequency.

Therefore, it would have been obvious for a person with ordinary skill in the art at the time the invention was made to stop both the signal transmissions in first and second carrier frequency to detect position of the mobile station.

Claim 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over **prior art admission by Applicant** in view of the **Kong et al. (U.S. Patent 6,473,619 B1)**.

Consider **claim 9, as applied to claim 8 above**, prior admission by Applicant discloses the multicarrier transmission apparatus, wherein said instruction section includes:

a first control section that issues an instruction to stop signal transmission in said first carrier frequency (*read as the control section 21-1 controls signal transmission*

corresponding to the carrier frequency for communication with the mobile station, Fig. 4, line 17 of pages 4 to line 2 of page 5);

a second control section that issues an instruction to stop signal transmission in said second carrier frequency (*read as the control section 21-2 controls signal transmission corresponding to another carrier frequency within a predetermined bandwidth of the carrier frequency, Fig. 4, line 17 of pages 4 to line 2 of page 5*);

and the first control section and the second control section were instructed to stop transmission (*read as both the RF analog sections 18-1 and 18-2 stop transmitting signals, Figure 4, in view of lines 23-25 of page 2 of current application*).

However, prior art admission by Applicant fails to disclose that the instruction was from a third control section and was to stop signal transmissions at the same time to the first control section and the second control section.

In related art, Kong et al. discloses a forward transmission power (FTP) control method which comprises a controller 411 for controlling all channels (lines 1-4 of column 8) which may exist in a base station supporting a multicarrier forward channel structure (lines 10-16 of column 10). This FTP controls are preformed at the same time or at different times being increased by at least one frame (lines 23-24 of column 5).

Therefore, it would have been obvious for a person with ordinary skill in the art at the time the invention was made to incorporate the teachings by Kong et al. into the teachings by prior admission by Applicant to design a controlling section to have a similar controller as controller 411 by Kong et al. so that the control signals by first and second control section can be synchronized, thus making the base station for

transmitting signals synchronized at a predetermined time (abstract by Kong et al.).

With this controller (read as the third control section as claimed), it would be easy to issue an instruction to stop the signal transmission at the same timing.

Consider **claim 10, as applied to claim 8 above**, prior admission by Applicant discloses the multicarrier transmission apparatus,

wherein said instruction section issues an instruction to stop the signal transmission in said first carrier frequency (*read as the control section 21-1 controls signal transmission corresponding to the carrier frequency for communication with the mobile station, Fig. 4, line 17 of pages 4 to line 2 of page 5*); and

issues an instruction to stop the signal transmission in said second carrier frequency (*read as the control section 21-2 controls signal transmission corresponding to another carrier frequency within a predetermined bandwidth of the carrier frequency, Fig. 4, line 17 of pages 4 to line 2 of page 5*);

and the first control section and the second control section were instructed to stop transmission, and, first control section and second control were instructed to restart the transmission (*read as both the RF analog sections 18-1 and 18-2 in the base station stop transmitting signals for a short period of time, in view of lines 23-25 of page 2 and lines 14-21 of page 1 of current application*).

However, prior art admission by Applicant fails to disclose that the instructions was to stop signal transmission in said first carrier frequency *and then* stop the signal transmission in said second carrier frequency, and restart the signal transmission in

Art Unit: 2618

said first carrier frequency and then restart the signal transmission in said second carrier frequency.

In related art, Kong et al. discloses a forward transmission power (FTP) control method which comprises a controller 411 for controlling all channels (lines 1-4 of column 8) which may exist in a base station supporting a multicarrier forward channel structure (lines 10-16 of column 10). This FTP controls are preformed at the same time or at different times being increased by at least one frame (lines 23-24 of column 5).

Therefore, it would have been obvious for a person with ordinary skill in the art at the time the invention was made to incorporate the teachings by Kong et al. into the teachings by prior admission by Applicant to design a controlling section to have a similar controller as controller 411 by Kong et al. so that the control signals by first and second control section can be synchronized, thus making the base station for transmitting signals synchronized at a predetermined time (abstract by Kong et al.). With this controller (read as the third control section as claimed), it would be easy to issue an instruction to instructs the first control section stop transmission and thereafter instructs said second control section to stop transmission, and, after a predetermined period of time passes, instructs said first control section to restart the transmission and thereafter instructs said second control section to restart the transmission.

Consider **claim 11, as applied to claim 8 above**, prior admission by Applicant discloses the multicarrier transmission apparatus,

wherein said instruction section issues an instruction to stop the signal transmission in said first carrier frequency (*read as the control section 21-1 controls*

signal transmission corresponding to the carrier frequency for communication with the mobile station, Fig. 4, line 17 of pages 4 to line 2 of page 5); and

issues an instruction to stop the signal transmission in said second carrier frequency (read as the control section 21-2 controls signal transmission corresponding to another carrier frequency within a predetermined bandwidth of the carrier frequency, Fig. 4, line 17 of pages 4 to line 2 of page 5);

and the first control section and the second control section were instructed to stop transmission, and, first control section and second control were instructed to restart the transmission (read as both the RF analog sections 18-1 and 18-2 in the base station stop transmitting signals for a short period of time, in view of lines 23-25 of page 2 and lines 14-21 of page 1 of current application).

However, prior art admission by Applicant fails to disclose that the instructions was to stop signal transmission in said first carrier frequency *and then* stop the signal transmission in said second carrier frequency, and restart the signal transmission in said second carrier frequency and then restart the signal transmission in said first carrier frequency.

In related art, Kong et al. discloses a forward transmission power (FTP) control method which comprises a controller 411 for controlling all channels (lines 1-4 of column 8) which may exist in a base station supporting a multicarrier forward channel structure (lines 10-16 of column 10). This FTP controls are preformed at the same time or at different times being increased by at least one frame (lines 23-24 of column 5).

Therefore, it would have been obvious for a person with ordinary skill in the art at the time the invention was made to incorporate the teachings by Kong et al. into the teachings by prior admission by Applicant to design a controlling section to have a similar controller as controller 411 by Kong et al. so that the control signals by first and second control section can be synchronized, thus making the base station for transmitting signals synchronized at a predetermined time (abstract by Kong et al.). With this controller (read as the third control section as claimed), it would be easy to issue an instruction to instructs said first control section to stop transmission and thereafter instructs said second control section to stop transmission, and, after a predetermined period of time passes, instructs said second control section to restart the transmission and thereafter instructs said first control section to restart the transmission.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Junpeng Chen whose telephone number is (571) 270-1112. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on 571-272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

Art Unit: 2618

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Junpeng Chen
J.C./jc

EDAN ORGAD
PRIMARY PATENT EXAMINER

Edan Orgad 2/10/07